

United States District Court  
for the  
Southern District of Florida

Angela Nails, Plaintiff, )  
 )  
v. ) Civil Action No. 22-62378-Civ-Scola  
 )  
American Express, LLC, Defendant. )

**Order Denying Motion for Default Judgment**

This matter is before the Court on the Plaintiff's motion for default judgment (Mot. for Def. J., ECF No. 19) and the Plaintiff's motion for a hearing regarding the same (Mot. for Hearing, ECF No. 18.) Having reviewed the motions, the record, and the relevant legal authorities, the Court **denies** both motions. (**ECF Nos. 18, 19.**)

On February 23, 2023, the Court entered an order on the Clerk's default procedures because the Defendant, American Express, LLC, had not timely responded to the complaint. (Order on Clerk's Def. Proc., ECF No. 10.) In that order, the Court instructed the Plaintiff on how to obtain a Clerk's default against the Defendant and set a deadline of March 1, 2023, for the Plaintiff to do so. (*Id.*) Before the Plaintiff filed a motion for entry of Clerk's default against the Defendant, the Defendant appeared and responded to the complaint on February 24, 2023. (Answer & Aff. Defs., ECF No. 13.) Accordingly, the Clerk never entered a default against the Defendant, and the Clerk may no longer do so because the Defendant has responded. See Fed. R. Civ. P. 55(a). Additionally, the Plaintiff's motions were postmarked to the Court on April 12, 2023, well beyond the deadline to have moved for a Clerk's default, and the motions only address the entry of a default judgment, not the entry of a Clerk's default. (Mot. for Def. J. Ex. A, ECF No. 19-1.) Finally, the Clerk has since entered a non-entry of default against the Defendant. (Clerk's Non-Entry of Def., ECF No. 20.)

Accordingly, for the sake of clarity, the Court now **discharges** its order on Clerk's default procedures. (**ECF No. 10.**) The Court also **denies** the Plaintiff's motion for default judgment and motion for a hearing on the same. (**ECF Nos. 19, 18.**)

**Done and ordered** in Miami, Florida, on April 18, 2023.

  
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Robert N. Scola, Jr.  
United States District Judge

*Copy via U.S. mail to:*

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